

U.S. Department of Labor

Office of Administrative Law Judges
525 Vine Street, Suite 900
Cincinnati, Ohio 45202



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In the Matter of :

INDIANA DEPARTMENT OF WORKFORCE :
DEVELOPMENT, STATE OF INDIANA :

Complainant :

versus :

U.S. DEPARTMENT OF LABOR :

Respondent :
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Date: NOV 10 1994

Case No.: 94-UIA-3

NOTICE OF HEARING AND PRE-HEARING ORDER

NOTICE IS HEREBY GIVEN that a hearing in the above entitled case will be held before an Administrative Law Judge of the U.S. Department of Labor in the U.S. Tax Court, Room 288, Federal Building & Courthouse, 46 E. Ohio Street, Indianapolis, Indiana on Wednesday, January 11, 1995, commencing at 1:00 p.m.

Procedurally, the hearing will be conducted based upon regulations provided at 29 C.F.R. Part 18.

To the extent that the following materials have not previously been submitted in response to the Notice of Docketing, and in the interest of expediting the hearing and insuring a prompt disposition of this matter, IT IS FURTHER ORDERED that the parties shall take the following action:

1. PREHEARING EXCHANGE. At least 10 workdays prior to the hearing the parties shall submit to the Administrative Law Judge and exchange by mail a prehearing submission containing the following information:

(a) A brief statement of each issue and the parties' position with regard thereto, including the citation of all relevant statutes, regulations, and case law.

(b) The full name and address of each witness the party proposes to call with a short summary of the witness' expected testimony.¹ NO EXPERT WITNESS will be permitted to

¹ Failure to comply with this provision may result in exclusion of the testimony of witnesses not listed. Cf. Rule 16, Federal Rules of Civil Procedure.

testify unless the party calling that witness serves upon the other parties a written expert witness report together with a Curriculum Vitae setting forth the professional qualifications of the expert. The written report will be marked as an exhibit of the offering party and received into evidence as that witness' testimony in chief. Additional direct testimony from the expert will be allowed only if circumstances warrant. It is expected that the qualifications of the expert will ordinarily be stipulated. However, objections to the expert's qualifications will be considered so long as the objections are raised in writing at least five workdays from the date of receipt of the material. Following the qualification of the expert and the introduction of his/her report into evidence, the witness will be made available for cross-examination. Cross-examination by way of deposition is also encouraged.

(c) A copy of all non-stipulated documents which the party expects to introduce as evidence. Each document must be properly marked for identification at the bottom of each Exhibit as DOL, Employer, Complainant or Respondent Exhibit 1, 2, 3, etc., and paginated. Only those documents which are NOT stipulated should be submitted under this section.

2. STIPULATION OF DOCUMENTS. The parties are directed to stipulate as to authenticity and content all documents which they mutually agree should be made a part of the record. Each of the stipulated documents must be properly marked for identification at the bottom of each page as Joint Exhibit 1, 2, 3, etc., paginated, and either placed in a three-ring binder or be bound together in some other acceptable form. It is expected that any computations of the Department of Labor will be fully stipulated to the extent that the parties agree with the hours worked, rate of pay, and amount allegedly due each employee or as they agree with any of those individual items.

3. PRELIMINARY MOTIONS. All preliminary MOTIONS² and a statement of objections to any of the proposed testimony or documentary evidence submitted must be lodged within five workdays from the date of receipt of the pre-hearing exchange materials. Failure to voice an objection within the five-day period will result in a waiver of all rights with respect to the introduction of any of the materials.

4. DISCOVERY will be concluded by December 23, 1994.

5. LEGIBLE COPIES. The parties are also directed to conduct a review of all documents which are made a part of the formal record. Any documents received into evidence which are not clearly legible will be given no weight.

6. PRE-HEARING CONFERENCE. A pre-hearing conference will be held at the U.S. Tax Court, Room 288, Federal Building & Courthouse, 46 E. Ohio Street, Indianapolis, Indiana on Wednesday, January 11, 1995, commencing at 10:00 a.m.

² However, time limitations stated in the Department of Labor, Rules of Practice and Procedure, 29 C.F.R. Part 18, will control.

Failure to timely comply with this prehearing order without good cause may result in the dismissal of the proceeding or the imposition of other appropriate sanctions against the noncomplying party.

Rudolf L. Jansen
Administrative Law Judge